

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

DANIEL McGOUGH,

Plaintiff,

Case No. 5:24-cv-12580

v.

Hon. Judith E. Levy

LINCOLN CONSOLIDATED SCHOOLS,
BRICK ELEMENTARY, PAULA
ROBINETTE, (Director of Human
Resources), CASSANDRA COKER,
(Principal of Brick Elementary),
PAM FLUCKS, (Lead Secretary of
Brick Elementary),

Defendants.

**ANSWER TO REVISED/CORRECTED COMPLAINT FOR
VIOLATION OF CIVIL RIGHTS,
AFFIRMATIVE DEFENSES, AND RELIANCE ON JURY DEMAND**

NOW COME Defendants LINCOLN CONSOLIDATED SCHOOLS, BRICK
ELEMENTARY, PAULA ROBINETTE, and CASSANDRA COKER, by and through
their attorneys, Plunkett Cooney, and in response to Plaintiff's
Revised/Corrected Complaint, state as follows:

JURISDICTION AND VENUE

1. Defendants deny that Plaintiff has pled a viable cause of action.
Indeed, all claims are barred by governmental immunity, absolute immunity,
qualified immunity, or immunity afforded under the law.

2. Defendants deny that Plaintiff has pled a viable cause of action. Indeed, all claims are barred by governmental immunity, absolute immunity, qualified immunity, or immunity afforded under the law.

PARTIES

3. No contest.

4. Defendants admit that it is an educational institution/governmental entity engaged in the exercise or discharge of governmental function and at all times relevant to this cause of action and, accordingly, all claims are barred by governmental immunity.

5. Defendant Brick Elementary is not an entity capable of being named as a party in litigation.

6. Defendant admits that she is a governmental employee engaged in the exercise of a governmental function all times relevant to this cause of action, and all claims are barred by governmental immunity/qualified immunity.

7. Defendant admits that she is a governmental employee engaged in the exercise of a governmental function all times relevant to this cause of action, and all claims are barred by governmental immunity/qualified immunity.

8. Defendant admits that she is a governmental employee engaged in the exercise of a governmental function all times relevant to this cause of action, and all claims are barred by governmental immunity/qualified immunity.

FACTUAL ALLEGATIONS

9. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

11. Defendants deny the allegations contained therein as same are untrue.

12. Defendants deny the allegations contained therein as same are untrue.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

14. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

15. Defendants deny the allegations contained therein as same are untrue.

16. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

18. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

19. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

20. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

21. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

22. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

23. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

24. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

25. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

26. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

27. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

28. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

29. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

30. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

31. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

32. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

33. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations and, accordingly, Defendants neither admit nor deny the allegations.

ADDITIONAL ALLEGATIONS UNDER FEDERAL LAW

Count I: Violation of Civil Rights Under 42 U.S.C. § 1983

34. Defendants incorporate by reference their answers to paragraphs 1 through 33 as though restated herein word for word and paragraph for paragraph.

35. Defendants object to this allegation in that it calls for a legal conclusion and, accordingly, no further answer is necessary. Without waiving the objection, Defendants indicate that they have not violated 42 U.S.C. § 1983.

36. Defendants object to this allegation in that it calls for a legal conclusion and, accordingly, no further answer is necessary. Without waiving the objection, Defendants indicate that they have not violated Plaintiff's Fourteenth Amendment rights.

37. Defendants deny the allegations contained therein as same are untrue.

38. Defendants deny the allegations contained therein as same are untrue.

Count II: Conspiracy to Violate Civil Rights Under 42 U.S.C. § 1985(3)

39. Defendants incorporate by reference their answers to paragraphs 1 through 38 as though restated herein word for word and paragraph for paragraph.

40. Defendants deny the allegations contained therein as same are untrue.

41. Defendants deny the allegations contained therein as same are untrue.

42. Defendants deny the allegations contained therein as same are untrue.

Count III: Neglect to Prevent Civil Rights Violation Under 42 U.S.C. § 1986

43. Defendants incorporate by reference their answers to paragraphs 1 through 42 as though restated herein word for word and paragraph for paragraph.

44. Defendants deny the allegations contained therein as same are untrue.

45. Defendants deny the allegations contained therein as same are untrue.

46. Defendants deny the allegations contained therein as same are untrue.

Count IV: Discriminatory Practices in Violation of the Equal Protection Clause of the Fourteenth Amendment

47. Defendants incorporate by reference their answers to paragraphs 1 through 46 as though restated herein word for word and paragraph for paragraph.

48. Defendants deny the allegations contained therein as same are untrue.

49. Defendants deny the allegations contained therein as same are untrue.

50. Defendants deny the allegations contained therein as same are untrue.

State Law Claims (if applicable)

51. No answer is required.

WHEREFORE Defendants request this Honorable Court enter a judgment of no cause for action and award costs and attorney fees so wrongfully sustained in defending this litigation.

PLUNKETT COONEY



BY:

Date: November 20, 2024

MICHAEL D. WEAVER P43985
Attorney for Defendants
38505 Woodward Avenue
Suite 100
Bloomfield Hills, MI 48304
Tele: (248) 901-4025
mweaver@plunkettcooney.com

AFFIRMATIVE DEFENSES

NOW COME Defendants, LINCOLN CONSOLIDATED SCHOOLS, BRICK ELEMENTARY, PAULA ROBINETTE, and CASSANDRA COKER, by and through their attorneys, Plunkett Cooney, and submit the following as their Affirmative Defenses which may be used at the time of trial of this matter:

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. Plaintiff's claims are barred by governmental immunity.
3. Plaintiff's claims against the individual Defendants are barred by qualified immunity.
4. Plaintiff has failed to mitigate his damages.
5. Plaintiff's damages, if any, are the result of Plaintiff's own acts and omissions.

6. Plaintiff's damages, if any, are the result of the acts and omissions of third parties either identified or not yet identified in this litigation.

7. Plaintiff's claims are barred for the reason that the allegations sound in simple negligence and the alleged conduct is not the type contemplated in 42 USC § 1982.

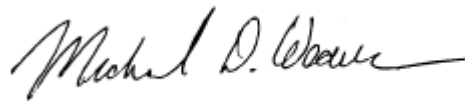
8. Plaintiff's claim is barred for the reason that Plaintiff has failed to allege any deprivation of a specific constitutional right.

9. The claimed activity does not result from a state action.

10. Defendants reserve the right to amend these Affirmative Defenses up and until the time of trial.

PLUNKETT COONEY

BY:



Date: November 20, 2024

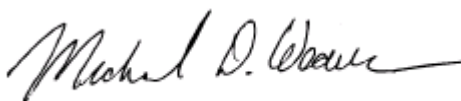
MICHAEL D. WEAVER P43985
Attorney for Defendants
38505 Woodward Avenue
Suite 100
Bloomfield Hills, MI 48304
Tele: (248) 901-4025
mweaver@plunkettcooney.com

RELIANCE ON JURY DEMAND

NOW COME Defendants LINCOLN CONSOLIDATED SCHOOLS, BRICK ELEMENTARY, PAULA ROBINETTE, and CASSANDRA COKER, by and through their attorneys, Plunkett Cooney, and hereby rely on the jury demand filed in the above referenced matter.

PLUNKETT COONEY

BY:



Date: November 20, 2024

MICHAEL D. WEAVER P43985
Attorney for Defendants
38505 Woodward Avenue
Suite 100
Bloomfield Hills, MI 48304
Tele: (248) 901-4025
mweaver@plunkettcooney.com

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon all parties on 11/20/2024 by:

☐ U.S. MAIL ☐ FAX
☐ HAND DELIVERED ☐ OVERNIGHT EXPRESS
☐ FEDERAL EXPRESS ☒ OTHER (ECF e filing)

Signature: /s/Amy J. Wells

Open.13194.43450.35406435-1